

FILED

MAY 12 2000

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY [Signature] DEPUTY

)

)

)

)

1

1

DOCKFETED

)

ORDER

34

second or successive petition.

The Tenth Circuit Court of Appeals has found that Fed.R.Civ.P. 60(b) motions to set aside or vacate the denial of a petition for writ of habeas corpus are considered second or successive, requiring prior authorization by the Circuit. *Lopez v. Douglas*, 141 F.3d 974, 975-76 (10th Cir.), *cert. denied*, 525 U.S. 1024 (1998)(citing *Burris v. Parke*, 130 F.3d 782, 783 (7th Cir. 1997)). Without prior authorization from the Circuit, the Court lacks jurisdiction to entertain petitioner's claims. *Id.* As such, the matter is transferred to the Tenth Circuit Court of Appeals pursuant to 28 U.S.C. §2244(b)(3)(A). Whether petitioner's claims are meritorious warranting a review of his claims is a matter for the Circuit.

The Report and Recommendation is ADOPTED in its entirety. The matter is transferred to the Tenth Circuit Court of Appeals.

IT IS SO ORDERED this 12th day of May, 2000.



WAYNE E. ALLEY
UNITED STATES DISTRICT JUDGE

ENTERED ON DISTRICT COURT ON

MAY 12 2000